E475
.18
.P86

PROPERTY OF
THE LIBRARY OF CONGRESS

PROPERTY OF
THE LIBRARY OF CONGRESS

.T8
.P86

PROPERTY OF
THE LIBRARY OF CONGRESS

PROPERTY OF
THE LIBRARY OF CONGRESS

E 475
.18
.P86
Copy 1

THE MORGAN RAID.

SPEECH OF

HON. B. F. POTTS,

OF CARROLL COUNTY, OHIO,

DELIVERED IN THE OHIO SENATE,

MARCH 19, 1869.

25-16
5 26-5

COLUMBUS, O.:
OHIO STATE JOURNAL BOOK AND JOB PRINT.
1869.

.18
.P86

E475
.18
P86

THE MORGAN RAID.

SPEECH OF HON. B. F. POTTS,

Delivered in the Ohio Senate, March 19th, 1869.

HOUSE BILL NO. 34, by Mr. WELSH—A Bill to provide for the payment of claims for damages, growing out of the Military Expedition of John Morgan in the State of Ohio, A.D. 1863, being under consideration—

Mr. POTTS said:—

MR. PRESIDENT: In the discussion of this bill, I desire to deal fairly with the friends of the measure, and to examine carefully and impassionately its provisions. The bill is one of the greatest importance, as it effects directly every tax-payer in the State, and should be carefully considered by every Senator before he gives it his approval by his vote. A raid was made through a portion of our State in 1863, by confederate forces under the command of John Morgan, which appropriated, destroyed or damaged considerable property belonging to the people of Ohio. The United States forces and the Ohio Militia who pursued Morgan's command, also, necessarily, appropriated and damaged some property belonging to our citizens. A Commission was appointed by an act of the Legislature in 1864, to examine the claims of our citizens growing out of the Morgan Raid—and by their report we find that claims for damages caused by the rebel forces are reported at four hundred and thirty thousand nine hundred and sixty-nine dollars, damages caused by the United States forces one hundred and forty-three thousand six hundred and eleven dollars, and for damages caused by the Ohio Militia six thousand two hundred and fifty-seven dollars, making the total sum of five hundred and eighty thousand eight hundred and thirty-seven dollars—which amount is to be drawn from the pockets of the now over-burdened people of Ohio, should this bill become a law. As a Senator upon this floor, representing thirty million dollars of taxable property, I protest in the name of the tax-payers of Ohio against the passage of this unfair and illegal measure. Mr. President, what authority have the friends of this bill to claim that the State Treasury should be depleted to pay these claims? Under what law, human or divine, can the Legislature of Ohio do this unjust thing? The act creating the Commission did not legalize these claims but, on the contrary, it expressly stated that the act should create no claim against the State. In the determination of important questions we should consult the law and precedents, and in this case the laws of war, as accepted by the civilized world, should be the guide in determining our vote on the bill under consideration. These claims result almost entirely from the ravages of war, and let me call the attention of Senators to the law upon this subject. I read from Vattel, on the Law of Nations, page 402:

"Is the State bound to indemnify individuals for damages they have sustained by war? * * * *

"The damages under consideration are to be distinguished into two kinds: Those done by the State itself or the sovereign, and those done by the enemy. Of the first kind, some are done deliberately and by way of precaution—as when a field, a house, or a garden belonging to a private person, is taken for the purpose of erecting on the spot a town, rampart or any other piece of fortification, or when his standing corn or his store-

houses are destroyed to prevent their being of use to the enemy. But there are other damages caused by inevitable necessity, as, for instance, the destruction caused by artillery, in retaking a town from the enemy. These are mere accidents; they are misfortunes which chance deals to the proprietors on whom they happen to fall. The sovereign, indeed, ought to show an equitable regard for the sufferers, if the situation of his affairs will admit of it, but no action lies against the State for misfortunes of this nature, for losses which she has occasioned, not wilfully, but through necessity and by mere accidents, in the exertion of her rights.

"The same may be said of damages caused by the enemy. All the subjects are exposed to such damages, and woe to him on whom they fall. The members of society may well encounter such risk of property, since they encounter a similar risk of life itself.

"Were the State strictly to indemnify all those whose property is injured in this manner, the public finances would soon be exhausted, and every individual in the State would be obliged to contribute his share in due proportion—a thing utterly impracticable. Besides, these indemnifications would be liable to a thousand abuses, and there would be no end of the particulars. *It is therefore to be presumed that no such thing was ever intended by those united to form a society.* But it is perfectly consonant to the duties of the State and sovereign, and, of course, perfectly equitable, and even strictly just, to relieve, as far as possible, those unhappy sufferers who have been *ruined by ravages*, as likewise to take care of a family whose head and support lost his life in the service of the State."

Mr. President—I also read from Halleck on International Law, page 849, the latest work published in this country on that subject. He says: "No Government can be supposed to be able, consistently with the welfare of the whole community, to assume the burden of losses produced by conquest or the violent dismemberment of the State."

From the authorities just quoted, we learn that a government may, if the condition of its public affairs will admit of it, extend relief to such of its citizens as have been ruined by the ravages of war—persons who have been reduced to want. Will any Senator claim for a moment that this bill provides for the relief of persons who have been utterly *ruined* by the ravages of war? Certainly not. Let Senators examine the list of claimants that will receive the five hundred and eighty thousand dollars by the passage of this bill, and you will find them persons of wealth, beyond the reach of want or poverty. The gentleman from Guernsey, Mr. Lawrence, asserts that there are persons along the line of the raid, who were ruined in consequence of the same. I say to the honorable Senator and the friends of this bill, that when they make a case here before the Senate that certain persons have been *ruined* by the Morgan Raid, that they have been reduced to want by it, I will go as far as any Senator on this floor to extend to them ample and sufficient relief. Yes, restore to them their property or the value thereof.

Mr. President—In the consideration of this bill, we are reminded that very recently this country was engaged in a great civil war, and during its continuance and since its close many questions have arisen for adjudication and settlement. The liabilities of the government for damages caused by the public enemy, and for property appropriated or destroyed by our own army, have been adjudicated and settled by the highest power in the Government. The Committee on Claims of the Thirty-ninth Congress, had under consideration the whole question of compensation to citizens for damages resulting from the ravages of war, and after a long and patient examination of the question, a report was made adopting the position of Vattel, on the Law of Nations.

I beg the Senate to bear with me while I read the report of the Committee, which is found in Vol. 1, page 1, 2 & 3, of the Report of Committees of the 39th Congress, Report No. 10, January 18th, 1860. Mr. Delano, of Ohio, from the Committee on Claims, made the following report:

* * * * "The Committee say

they are unable to obtain any definite information as to the quantity or value of the property destroyed or appropriated; but it is suggested that an attempt to indemnify and compensate this numerous class of claimants will require an amount of appropriations much greater than the revenues of the Nation at this time can possibly satisfy. It seems to the Committee, therefore, that the House should determine by its actions, whether the claims should be assumed, whereby the national debt must be increased to an indefinite extent. * * * * *

"Appeals to our sympathy, humanity and benevolence are not easily resisted, and it is a credit to human nature that we are so constituted as to be accessible to such appeals. It is to be remembered, however, that such ought *not to induce* and can not *authorize* us to levy extraordinary taxation upon our constituents in order to gratify our charitable impulses. We are not *almoners*, merely *for the Nation*, and have no just right to impose increased taxation in order to gratify our feelings of benevolence, nor to establish principles of abstract justice and equity, when there is no rule requiring it, and particularly when the attempt is to be attended with great uncertainty, and to be subjected to innumerable impositions and frauds. * * *

"It seems to the Committee that the magnitude of the public debt, created to suppress the rebellion, renders it impossible for the Government to attempt to compensate all those who have sustained individual losses by the action of the army in the field. The attempt would impair the National credit abroad, destroy confidence in the public securities everywhere, impose such additional burdens of taxation as to give cause for discontent and complaint, and thereby lead to the possible encouragement of such evil-minded persons as may be led to favor the policy of *repudiation*. The Committee are therefore of the opinion that, in view of the magnitude of these losses, as well as the magnitude of the public debt, and the thousand abuses necessarily resulting from an attempt to satisfy these claims, in the words of Vattel, "*the thing is utterly impracticable*" and ought not to be encouraged. * * *

"The Committee call the attention of the House to an act of Congress approved July 4, 1864, entitled an act to restrict the jurisdiction of the Court of Claims, &c. * *

"In the light of this act, it seems to have been the policy of the authors that the claims of loyal citizens, in loyal States, for supplies to the army, should be paid; and that the Government should not be held liable for any such claim coming from citizens of States in rebellion, or *liable for any claim coming from any portion of the country* which resulted merely from the ravages of war. * * The Committee think that the policy of this act, as they understand it, should be strictly adhered to; that the necessities of the nation demand that we attempt to pay no claim growing out of the destruction of or damage to property by the necessities of the war, nor any claims for property furnished to, or taken by military officers, except as the same is now provided by the act referred to."

Mr. President, I desire to invite the attention of the Senate to the provisions of the act of Congress, referred to by the Committee in their report which I have just read. The second section of the act provides that claims of loyal citizens in States not in rebellion, for quartermaster's stores actually furnished to the army of the United States, and receipted for by the proper officer receiving the same, or which may have been taken by such officer without giving such receipt, may be submitted to the Quartermaster General of the United States, accompanied by such proofs as said claimant can present of the facts in his case; and it shall be the duty of the Quartermaster General to cause such claim to be examined, and if convinced thal it is just, and of the loyalty of the claimant, and that the stores have actually been received or taken for the use of and used by said army, then to report each case to the Third Auditor of the Treasury, with a recommendation for settlement.

Section third provides in the same manner for the payment of claims for subsistence actually furnished the army, as is provided for in the second section, for payment of

quartermaster's stores. Now, Mr. President, there can be no doubt but the United States will pay our citizens for all property taken by our troops while in pursuit of Morgan. The act of Congress which I have just read authorizes such payment, and I am informed by the Adjutant General of Ohio that he has collected a large number of claims for our citizens from the general Government, under the provisions of said act, and many more claims of like character are on file, awaiting settlement. The claims for property appropriated by the United States forces in pursuit of Morgan are legal claims against the United States, but not against the State of Ohio. Then why assume the payment of them? Are the Morgan Raid claims of so sacred a character that the State must assume the payment of them.

Let us examine for a moment some of the claims allowed by the Commission and to be paid for by the bill under consideration:—Two bushels of oats, $2.25; apples taken from orchard, $30.00; 1 Black Hawk pony, forty-two years old; 1 sucking colt; 1 pistol, $4; one colt, died; 1 pair boots; 2 woolen blankets, &c.

The soldiers of Ohio have a higher and more sacred claim against the Government for bounties, back-pay and pensions, and yet the friends of this bill would be unwilling to pay our soldiers their claims out of the State Treasury. I do not claim that the State should pay our soldiers their claims out of the State Treasury. There is no authority for it. The soldier presents his claim against the United States before the proper department at Washington, and if his claim is a legal one it is allowed and paid. I therefore insist that the Morgan Raid claimants shall have no partiality shown them over other citizens of the State. I do not understand the friends of this bill to claim that the United States will reimburse the State for money expended in paying said claims. The law which I have read prevents them from insisting on such a proposition.

Mr. President, I do not see, in the condition of the finances of the State, how the sum of six hundred thousand dollars can be paid without seriously endangering the credit of the State. I beg the attention of Senators to a statement which I have received from Hon. J. H. Godman, Auditor of State, a gentleman thoroughly acquainted with the finances of Ohio:

AUDITOR OF STATE'S OFFICE,
COLUMBUS, O., *March* 16, 1869.

Hon. B. F. Potts, Ohio Senate:

DEAR SIR: Yours of yesterday, inquiring whether an increase of five or six hundred thousand dollars to the Funded Debt of the State will necessitate increased taxation for Sinking Fund purposes, is before me. The following will be the condition of the Sinking Fund for 1869 and 1870, as near as can be estimated:

RECEIPTS.

1869.	Balance in Treasury, Nov. 15, 1868		$ 352,433 41
	From the United States		262,000 00
	" Taxes		1,318,720 72
	" Proceeds of School Lands and other sources		45,000 00
			1,978,154 13
1870.	" Taxes	$1,300,000 00	
	" Other sources	50,000 00	
			1,350,000 00
	Total receipts for the two years		$3,328,154 13

DISBURSEMENTS.

1869.	Interest on the Funded Debt of the State		$ 600,000 00
	" on Irreducible Debt		225,000 00
	Due Agricultural College Fund, Nov. 15, 1868		39,345 00
	" Ohio Life Insurance and Trust Company on judgment		77,000 00
1870.	Interest on Funded Debt		550,000 00
	" " Irreducible Debt		225,000 00
			$1,716,345 00
	Total receipts	$3,328,154 13	
	Payments of interest, &c., as above	1,716,345 00	
		$1,611,809 13	
	Deduct for int. in July, 1871	200,000 00	
	Balance applicable to principal	$1,411,809 13	
	Principal of Funded Debt, due Dec. 31, 1870	2,026,170 60	
	Deficiency of the Fund	$ 614,361 47	

The United States owes the State upon war claims, some $200,000, a portion of which will probably be paid, but how much will be paid or when, cannot be told. Whatever may be paid by the Government on these claims, if paid within two years, will reduce this balance of $614,361 47 against the Sinking Fund. The Sinking Fund is the fund chargeable with the payment of the principal and interest of the public debt. If no additional charges are made upon this fund, the existing debts of the State can be paid and arranged for, without increasing the present

levy. In addition to the $2,026,170 60 of funded debt due, Dec. 31, 1870, there is $400,000 due June 1, 1871, making with the balance of $614,361 47, the aggregate of $1,014,361 47. This can be provided for by a temporary extension, and be taken up in 1871 and 1872; but if any new bonds are issued, an additional levy of taxes will be necessary to meet the increased principal and interest. The loan due in 1875 amounts to $1,600,000, and it will take all the income of 1873, 4 & 5 to meet that, at rates of levy *equivalent* to those now made. You perceive I make no definite estimates beyond 1870. This is because the real estate appraisement takes place in 1870, and the new valuations will come upon the duplicates of 1871, and of course the Legislature of 1871, will raise the rates of all levies, adapting them to the new valuations, which will form the basis of taxation for that year, and several years thereafter. Any estimates of receipts therefore, after 1870, must now be merely conjectural, and can hardly reach the dignity of plausible guess work. Respectfully, &c.,

JAS. H. GODMAN,
Auditor of State.

Mr. President, no friend of this bill has explained to the Senate how the money required to pay these claims is to be obtained. The provisions of the Constitution of Ohio limits the power of the Legislature to raise revenue by taxation. We cannot exceed a certain amount annually for all purposes. The question for Senators to determine is, shall we pass this bill and compel the tax-payers of Ohio to pay to these rich claimants the sum of six hundred thousand dollars—and thereby exclude the unfortunates of the State from that proper care and attention which they should receive at the hands of the people of Ohio. Senators should be reminded that the State lost by fire last November the Central Lunatic Asylum, and a large number of its inmates were returned to the cold charity of our County Infirmaries. I think no Senator will say that said Institution shall not be rebuilt at once, and I regret that arrangements for re-building have been delayed so long. A new building for the Institution for the Education of the Blind is absolutely needed. The present building is badly ventilated; there is no safe protection against loss by fire, and it is without sufficient capacity to meet the wants of this unfortunate class of our people. A Home for the Orphans of Ohio Soldiers is a question that is pressing upon us with irresistible force. How can we avoid the responsibility of providing for the education and maintenance of the orphans of the gallant men who went down in the "smoke of battle" and gave their lives that our country might live. I know Senators upon this floor who will oppose the Soldiers' Orphan Home, and then vote to pay the Morgan Raid claims. What justice! What consistency! What patriotism! I trust for the sake of our common humanity that such Senators are few. The establishment of a Reform School for girls, is demanded at the hands of the people's representatives, and we should not forget that humanity demands that we should at once establish one or more asylums for the incurably insane that are today confined in their filth in the County Infirmaries of the State. I know that I speak the voice of my constituents when I oppose all measures looking to an unnecessary and unauthorized expenditure of the public moneys. I trust, Mr. President, that the bill will not pass.

LIBRARY OF CONGRESS
0 013 706 822 9

.P86

PROPERTY OF
THE LIBRARY OF CONGRESS

PROPERTY OF
THE LIBRARY OF CONGRESS

LIBRARY OF CONGRESS
0 013 706 822 9

PROPERTY OF
LIBRARY OF CONGRESS

PROPERTY OF
LIBRARY OF CONGRESS

Permalife®
pH 8.5